

# Exhibit C

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

B.F., et al., )  
 )  
Plaintiffs, )  
 )  
v. ) No. 4:12-CV-1760 CAS  
 )  
ABBOTT LABORATORIES, INC., )  
et al., )  
 )  
Defendants. )

JURY TRIAL

**VOLUME 2A**

BEFORE THE HONORABLE CHARLES A. SHAW  
UNITED STATES DISTRICT JUDGE

MAY 24, 2016

APPEARANCES:

For Plaintiffs: John T. Boundas, Esq.  
John Eddie Williams, Jr., Esq.  
Brian A. Abramson, Esq.  
Margot G. Trevino, Esq.  
**WILLIAMS KHERKHER LLP**

George Erick Rosemond, Esq.  
**ROSEMOND LAW, P.C.**  
**(APPEARANCES CONT'D ON PAGE 2)**

REPORTED BY: ANGELA K. DALEY, CSR, RMR, FCRR, CRR  
Official Court Reporter  
United States District Court  
111 South Tenth Street, Third Floor  
St. Louis, MO 63102  
(314) 244-7978

PRODUCED BY COURT REPORTER COMPUTER-AIDED TRANSCRIPTION

APPEARANCES CONTINUED

For Defendants: Dan H. Ball, Esq.  
Stefan A. Mallen, Esq.  
Stefani L. Rothermel, Esq.  
**BRYAN CAVE LLP**  
  
Kathleen S. Hardway, Esq.  
Paul F. Strain, Esq.  
**VENABLE LLP**

INDEX

WITNESSES:	<u>Page</u>
DR. GODFREY OAKLEY	18
Direct Examination By Mr. Williams	18
Cross Examination By Mr. Ball	84

1 MR. WILLIAMS: Thank you, Your Honor. Dr. Godfrey  
2 Oakley.

3 DR. GODFREY OAKLEY,  
4 **Having Been First Duly Sworn, Was Examined and Testified As**  
5 **Follows:**

6 DIRECT EXAMINATION

7 BY MR. WILLIAMS:

8 Q Good morning. Would you introduce yourself to the jury  
9 please.

10 A Yes. Good morning. I'm Godfrey Oakley. I'm a  
11 pediatrician, a geneticist, and a public health doc. I went  
12 to medical school, and I worked at the CDC for 30 years in  
13 their birth defects program, and in the end, I was the  
14 director of the birth defects and developmental disabilities  
15 division. I retired from there and I went to Emory University  
16 where now I'm a research professor of epidemiology in the  
17 Rollins School of Public Health.

18 Q Okay. So birth defects is the issue. How long have you  
19 been studying birth defects?

20 A Well, I studied them as a pediatrician, but once I went  
21 to the CDC in 1968, ever since then. It's a long time.

22 Q Okay. And so let's talk about your background just for a  
23 moment. You've been a licensed medical doctor for how many  
24 years?

25 A Well, since 1965.

1 A It gets into the mother's blood supply, and it goes  
2 across the placenta, and it reaches the fetus -- or the embryo  
3 at that part of pregnancy, yes.

4 Q And the valproic acid from Depakote crosses the umbilical  
5 barrier -- am I saying it right -- and gets into the  
6 bloodstream of the fetus in those first 28 days?

7 A Yeah, through the placenta, yes.

8 Q And is the level in the child higher or lower than the  
9 level in the mom's blood?

10 A I'm not certain about that. I just know it's there.

11 Q Okay. Now I want to talk to you -- put on your  
12 teratologist hat. You've been president of the Teratologist  
13 Society. Is valproic acid a neural toxin?

14 A Yes, it certainly is toxic to the developing nervous  
15 system.

16 Q Is it a human teratogen?

17 A It is, and that word means it causes birth defects in  
18 people.

19 Q Is it a potent human teratogen?

20 A It's very potent.

21 Q And if you having studied birth defects for 50 years, how  
22 would you express to this jury how potent this valproic acid  
23 is to a developing fetus?

24 A Well, it's in the league with two other really difficult  
25 and powerful teratogens; one called thalidomide that was in

1 sleeping medicine in the late 50s and early 60s mostly in  
2 Europe. They had babies that had missing arms and legs. And  
3 a drug called Accutane that's used to treat acne. It causes  
4 devastating birth defects, facial malformations, missing ears,  
5 heart defects, and many of those kids will have an early  
6 death. So spina bifida is a very, very difficult birth  
7 defect. It causes paralysis from birth. It's associated in  
8 the first few days of life for the much increased rate of  
9 death. And we have done a paper with a colleague at Emory in  
10 looking at New York data, and at every age for the person's  
11 whole life has a threefold increased risk of having death  
12 compared to his age contemporary who doesn't have spina  
13 bifida. It's a very, very serious birth defect, and it's one  
14 of the most common ones that we have. And so to know that the  
15 Folic acid prevents it is wonderful.

16 Q I don't seem to have that red Physicians' Desk Reference  
17 handy, that PDR. If you look through the 11 or 14,000 drugs  
18 in the PDR, where would you rank valproic acid as far as being  
19 a potent human teratogen?

20 A Assuming you exclude the drugs that are used to treat  
21 cancer, which basically stops cell division, so you don't want  
22 to be doing that when you are trying to grow a baby, okay, but  
23 if you exclude those, it's in the top three. So thalidomide,  
24 Accutane, and valproic acid are the big three.

25 Q Any question that it's a potent human teratogen?

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

B.F., ET AL.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. 4:12-CV-1760-CAS
	)	
ABBOTT LABORATORIES, INC.,	)	
ET AL.,	)	
	)	
Defendants.	)	

JURY TRIAL - VOLUME 2B

BEFORE THE HONORABLE CHARLES A. SHAW  
UNITED STATES DISTRICT JUDGE

MAY 24, 2016

APPEARANCES:

For Plaintiffs: Daniel A. Ranieri, Esq.  
**AUBUCHON, RANIERE & PANZERI, PC**

John T. Boundas, Esq.  
John Eddie Williams, Jr., Esq.  
**WILLIAM KHERKHER HART BOUNDAS, LLP**

For Defendants: Dan H. Ball, Esq.  
Stefani L. Rothermel, Esq.  
**BRYAN CAVE, LLP**

Kathleen S. Hardway, Esq.  
Paul F. Strain, Esq.  
Stephen E. Marshall, Esq.  
**VENABLE, LLP**

REPORTED BY: REAGAN A. FIORINO, RMR, CRR, CSR, CCR  
United States District Court  
111 South 10th Street  
St. Louis, MO 63102 | (314)244-7989

PRODUCED BY COURT REPORTER COMPUTER-AIDED TRANSCRIPTION



INDEX

PLAINTIFFS' EVIDENCE

GODFREY P. OAKLEY, M.D.

Cross-Examination Continued By Mr. Ball . . . . . 3

Redirect Examination By Mr. Williams . . . . . .63

Recross Examination By Mr. Ball . . . . . .69

TRACEY HEIMBERGER

Videotaped Deposition Played . . . . . .73

RICHARD TRESLEY, M.D.

Videotaped Deposition Played . . . . . .74

Reporter's Certificate . . . . . .75

\* \* \*

MAY 24, 2016

(The proceedings resumed at 1:38 p.m.)

**THE COURT:** Good afternoon. You may be seated.

Please. Shall we continue, Mr. Ball?

**GODFREY P. OAKLEY, M.D.,**

having been previously sworn in by the deputy clerk,  
testified:

**CROSS-EXAMINATION CONTINUED**

**BY MR. BALL:**

Q. Good afternoon.

A. Good afternoon.

Q. Kind of in keeping with what we talked about before, in terms of making sure we get the whole story out, do you remember the exhibit where Mr. Williams pointed out that one of the women in the Robert study back in 1982 had spina bifida and was only taking 400 milligrams. Do you remember that?

A. I do.

Q. Okay. And, in fact, sir, that woman was taking a total of three drugs that can cause birth defects, wasn't she, sir?

A. I don't remember for sure, but there was one of those that were taking more than one drug, yes.

Q. And one was taking 400 milligrams, true?

A. Right. I would have to look again and see. I will take your word for it.

Q. All right. In fact, to be fair, that's something -- I

1 A. It's in one of my reports that was attached to this, yes,  
2 it is.

3 Q. Yeah, but you never -- you actually came up with that  
4 opinion when you were at dinner one night with the lawyers,  
5 right?

6 A. I was asked the question at dinner what would be -- and I  
7 said where I thought it would fit.

8 Q. Yeah. Did you do -- before you stated that opinion, did  
9 you go through all the drugs in here and make sure that  
10 opinion was correct?

11 A. I've spent all of my professional life dealing with the  
12 causes of birth defects, and I know that there are about 20  
13 drugs that are known to cause birth defects.

14 And you know I produced earlier, but not today, the  
15 page from Dr. Holmes' books that listed that, because people  
16 seem not to know that. And of that list, this drug stands out  
17 as being very bad and in the lead with Tegretol, in the lead  
18 with thalidomide and Accutane because of how severe it is and  
19 how much it increases the risk and how much problem it brings  
20 to families and kids that are affected.

21 Q. And you brought a list to a deposition of various drugs  
22 that are recognized as causing birth defects, various things  
23 that cause birth defects, true?

24 A. I brought a table that had that in it, yes.

25 Q. And one of the things that's on that table that is